

due to active suicidal ideation followed by a suicide attempt. Also of note to Dr. Safran was that the appellant claimed to have used marijuana twice, in December 2017 and again in early 2018, yet on her Biographical Summary Form, she indicated that she did not use or had not tried drugs. Psychological test data supported Dr. Safran's conclusions regarding the appellant. The appellant responded to the testing in an overly defensive and minimizing fashion. Dr. Safran concluded that the appellant was not psychologically suitable for employment as a Police Officer.

The Panel's report also indicates that Dr. David Gomberg, evaluator on behalf of the appellant, conducted a psychological evaluation and concluded that the appellant was psychologically stable, had no symptoms of mental illness, and had the personality characteristics that were consistent with the ability to perform the duties of a Police Officer. In Dr. Gomberg's opinion, the appellant's suicide attempt at age 15 "was a good learning experience for her and allowed her to understand that there are times that she might use mental health services to help her." This was evident when the appellant sought therapy for postpartum depression. Dr. Gomberg opined that, in every other aspect of the appellant's life, she had demonstrated good judgment, good impulse control, dedication to her studies, academic achievement, and stable and successful employment. Additionally, he noted that the appellant is in a stable and loving relationship with a man who supports her desire to become a Police Officer. Dr. Gomberg found no significant psychological reason why the appellant would be unsuitable for employment as a Police Officer, and therefore, qualified within a reasonable degree of certainty to possess a handgun.

The evaluators on behalf of the appellant and the appointing authority arrived at differing conclusions and recommendations. Dr. Safran raised concerns about emotional dysregulation, integrity, and substance use. Dr. Gomberg saw the appellant as stable and as having personality characteristics consistent with being able to perform the duties of the position. As set forth in its report, the Panel did not see the impulsive act of self-destruction at age 15 as being indicative of an ongoing pattern of emotional dysregulation nor did it see the appellant's treatment of postpartum depression as indicative of a pattern of psychological issues. However, the Panel did have concerns with the appellant's use of marijuana, which occurred when she was an adult and as an employee of the Bergen County court system. The Panel stated that recreational marijuana use was illegal at the time of the appellant's evaluation and it did not comport with her position in pre-trial services. The Panel saw the appellant's engagement in illegal activities of this nature while serving as a court employee who might be working with defendants with controlled substance charges was reflective of poor judgment and not consistent with having the judgment necessary to perform the duties of the position sought. Accordingly, the Panel concluded that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Police

Officer, indicated that the appellant was psychologically unfit to perform effectively the duties of the position sought, and therefore, the action of the appointing authority should be upheld. Accordingly, the Panel recommended that the appellant be removed from the subject eligible list.

In her exceptions, the appellant asserts that she only tried marijuana twice and has not used marijuana since. The appellant argues that she does not have a substance abuse issue and there is no evidence that her use of marijuana affected her ability to perform her duties with the court. She contends that, while using marijuana “may” have been a poor decision at the time, there is nothing to indicate that she currently suffers from poor judgment and she has “performed exceptionally well at her current job evidenced by promotions” and has never been the subject of any disciplinary actions. Additionally, she states that she was forthcoming in her marijuana use when there is nothing that documents her use. Further, the appellant notes that the Legislature has continuously tried to legalize or at least decriminalize the use of recreational marijuana and has expanded the expungement laws for “automatic expungements” for individuals who have been charged with low level marijuana offenses. Since the State is in favor of legalized marijuana, the appellant argues that her use of marijuana on two occasions should not disqualify her from the subject position.¹

In its cross exceptions, the appointing authority, represented by Joseph P. Horan, II, Esq., argues that the appellant was properly disqualified for her illegal drug use and rejects the appellant’s assertions largely premised on the passage of the 2020 ballot referendum. The appointing authority notes that the New Jersey Attorney General implemented a revised Drug Testing Policy in December 2020 which still makes marijuana use by all Police Officer candidates and Police Officers grounds for rejection as an applicant and immediate removal if employed as an officer without exception, limitation, or qualification. Although the appellant claims that she only tried marijuana twice in 2017 and 2018, the appointing authority contends that it “could have been and probably was many more times” and calls into question the appellant’s credibility. The appointing authority further points out the appellant indicated on her application that she never used illegal drugs. Moreover, it states that the Job Specification for the appellant’s title, Court Services Officer 1, also supports the Panel’s findings and clearly indicates that individuals serving in this capacity monitor addiction services treatment, including the taking of urine samples. The appointing authority asserts that, while using marijuana as a court employee, the appellant has demonstrated that she lacks the good judgment necessary to successfully function as a Police Officer. The appointing authority also

¹ In November 2020, the people of New Jersey voted to legalize or decriminalize the use of recreational marijuana. Effective February 22, 2021, the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” P.L. 2021 c. 16, and P.L. 2021, c. 19 legalized personal use of marijuana for certain adults and decriminalized possession of a small amount of marijuana and hashish.

notes the appellant's "disastrous record of motor vehicle accidents" and cites her suicide attempt and her postpartum depression as disqualifying. Lastly, the appointing authority indicates that, in as much as the appellant suggests that her marijuana use could have been expunged if she were charged, the ability to obtain an expungement "does not shield scrutiny of the issue in the context of desiring to be hired as a [P]olice [O]fficer." Therefore, the appointing authority maintains that the Panel's Report and Recommendation is fully supported by the record and requests that the Civil Service Commission (Commission) uphold the appellant's removal from the subject eligible list.

CONCLUSION

The Job Specification for the title, Police Officer, is the official job description for such municipal positions within the Civil Service system. The specification lists examples of work and the knowledge, skills and abilities necessary to perform the job. Examples include the ability to find practical ways of dealing with a problem, the ability to effectively use services and equipment, the ability to follow rules, the ability to put up with and handle abuse from a person or group, the ability to take the lead or take charge, knowledge of traffic laws and ordinances, and a willingness to take proper action in preventing potential accidents from occurring.

Police Officers are responsible for their lives, the lives of other officers and the public. In addition, they are entrusted with lethal weapons and are in daily contact with the public. They use and maintain expensive equipment and vehicle(s) and must be able to drive safely as they often transport suspects, witnesses and other officers. A Police Officer performs searches of suspects and crime scenes and is responsible for recording all details associated with such searches. A Police Officer must be capable of responding effectively to a suicidal or homicidal situation or an abusive crowd. The job also involves the performance of routine tasks such as logging calls, recording information, labeling evidence, maintaining surveillance, patrolling assigned areas, performing inventories, maintaining uniforms and cleaning weapons.

The Commission has reviewed the Job Specification for this title and the duties and abilities encompassed therein and finds legitimate concerns were raised by the appointing authority's evaluator concerning the appellant's poor judgment and integrity issues. The Commission is not persuaded by the appellant's exceptions and shares the Panel's concerns regarding the appellant's marijuana use while serving as a Court Services Officer 1. Regardless of whether recreational marijuana use is legal now, the appellant engaged in that activity when it was illegal. The Commission further notes that the appellant failed to indicate her marijuana use on her Biographical Summary Form for her pre-appointment psychological evaluation, which asked if she had used any drugs, to which she responded negatively. She only revealed her marijuana use to the appointing

authority's psychological evaluator during the interview. This omission is also indicative of integrity issues and further supports her disqualification. The Commission finds the record, when viewed in its entirety, supports the findings of the Panel and the appointing authority's evaluator concerning the appellant's judgment. Accordingly, the Commission cannot ratify the appellant's psychological fitness to serve as a Police Officer.

Therefore, having considered the record and the Panel's Report and Recommendation issued thereon, and having made an independent evaluation of the same, the Commission accepts and adopts the findings and conclusion as contained in the Panel's Report and Recommendation and denies the appellant's appeal.

ORDER

The Commission finds that the appointing authority has met its burden of proof that R.A. is psychologically unfit to perform effectively the duties of a Police Officer, and therefore, the Commission orders that her name be removed from the subject eligible list.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 21ST DAY OF JULY, 2021

Deirdre' L. Webster Cobb

Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence:

Allison Chris Myers
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: R.A.
Ciro Spina, Esq.
Hector C. Lora
Joseph P. Horan, II, Esq.
Division of Agency Services
Records Center